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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In The Matter Of )

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Amendment of the Commission's )   
Rules to Establish New Personal )   
Communications Services )

GEN Docket No. 90-314

RM-7140, RM-7175, RM-7618

**REPLY OF AMERITECH**

Ameritech submits this Reply to the Comments regarding Petitions For Reconsideration of the Commission's Rules to establish new Personal Communications Services (PCS), as promulgated in the Second Report And Order adopted September 23, 1993.<sup>1</sup>

With the limited exceptions noted in its Petition For Reconsideration,<sup>2</sup> Ameritech applauds the final PCS Rules and their effective balancing of the four original objectives adopted by the Commission: universality, speed of deployment, diversity of services, and competitive delivery.<sup>3</sup> The PCS Rules, when finally coupled with appropriate Rules for spectrum auctions, will clearly lead to the optimal balance of the Commission's four stated objectives. Toward that end, two points regarding the participation of cellular carriers in the PCS marketplace should be considered by the Commission.

<sup>1</sup> Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, Second Report And Order, released October 22, 1993 ("Order").

<sup>2</sup> Filed December 8, 1993, Ameritech's Petition For Reconsideration requested that the Commission revisit its Order with respect to two narrow technical issues: (1) base station power limits, and (2) the method of calculating PCS-to-fixed microwave interference levels.

<sup>3</sup> Notice of Proposed Rule Making and Tentative Decision, GEN Docket No. 90-314 and ET Docket No. 92-100, 7 FCC Rcd 5676 (1992), at 6.

The first point is the proposition that the PCS/cellular exclusion rule, as embodied in new Section 99.204 of the Rules, should be applied after the award of a PCS license. As explained in Ameritech's recent Comments in the pending Competitive Bidding proceeding, cellular operators, whom the Commission has recognized will bring expertise, economies of scope, and existing infrastructures to the emerging PCS marketplace, can only make rational decisions as to their participation in the auctions process if they are permitted to bid, and then given a reasonable time after they are awarded a PCS license to meet the associated eligibility rules.<sup>4</sup> Requiring a going cellular business to reduce or terminate its investment in that aspect of the wireless marketplace before being awarded a PCS license could only undermine economically-rational bidding decisions.

The same point was made in the instant proceeding by GTE.<sup>5</sup> The Commission should adopt this recommendation, over the unsupported protest of General Communication, Inc. ("GCI"), which argues that, somehow, despite the specific build-out requirements embodied in new section 99.206 of the Rules, "(i)t is obvious that there will be delays in the provision of PCS if a cellular carrier is allowed to bid for, win and obtain a PCS license but then must divests (sic) its cellular license before providing PCS."<sup>6</sup> The perceived warehousing threat is precisely why the Commission carefully weighed, and then adopted, buildout requirements in the first place. No further tinkering with either the PCS Rules or the auctions process is required.

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<sup>4</sup> In The Matter Of Implementation of Section 309 (j) of the Communications Act, PP Docket No. 93-253, Comments of Ameritech (filed November 10, 1993), at 2.

<sup>5</sup> Petition For Limited Reconsideration of GTE Service Corporation, filed December 8, 1993 ("GTE Petition"), at 5-7.

<sup>6</sup> Comments and Opposition of General Communications, Inc., filed December 30, 1993, at 12. GCI bases this argument on its fear that those cellular carriers who prepare, fund and submit the highest bids at auction would, for some reason, then decide "to 'lock up' large amounts of spectrum." (Ibid.)

As to the second point, Ameritech further endorses GTE's recommendation that cellular carriers which divest cellular holdings in order to comply with PCS eligibility rules should qualify for tax certificates.<sup>7</sup> Given the fact that the explosive growth of cellular service has caused considerable appreciation of many cellular holdings, the sale of such holdings could, indeed, result in substantial tax liability after the award – which, as GTE correctly notes, would be precisely the point at which the winners would be concerned with securing financing, buying out incumbent fixed microwave operators, and planning to build out their new systems.<sup>8</sup> Since many of the cellular interests which might operate to preclude cellular carriers from full participation in PCS were acquired with the Commission's active encouragement of such settlements, the award of tax certificates would negate any penalty for having entered such cooperative transactions.

Respectfully submitted,

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<sup>7</sup> GTE Petition, at 8.

<sup>8</sup> Ibid. See also GTE's discussion of the relevant case law at pp. 8-10.